



# **Alabama Attorney General's Guidelines on Mentoring in a Public Educational Setting**

**January 9, 2001**

**Everyone gains when communities come together to support their children and their children's education. Like many businesses and civic groups, communities and individuals of faith are expressing interest in helping their communities and their children through tutoring and mentoring programs. In a public educational setting, however, public schools must carefully observe the constitutional requirements of the First Amendment, and thus may neither foster religion nor discourage it.**

**In short, under the Constitution, public schools must remain neutral in religious matters. Public schools should treat religion with fairness and respect, and vigorously protect both religious expression as well as the freedom of conscience of all students. Accordingly, a public school should not discriminate against religious organizations if the school allows other community organizations and civic groups to participate in mentoring and tutoring programs. At the same time, however, a public school cannot promote or sponsor religious activity.**

**Adults who volunteer in public schools must respect both the rules established by the school and the strong constitutional protections of the freedom of conscience of students. Volunteer mentors and tutors must uphold these constitutional protections when assisting children in the public school setting. In doing so, public school programs reaffirm the First Amendment and enrich the lives of their students.**

**The office of Alabama Attorney General Bill Pryor is providing these guidelines to assist public schools and religious organizations in understanding established legal principles so that both vexatious litigation is avoided and religious liberties are protected. These guidelines are intended to be instructive, but not all-inclusive. It is also important to remember the difference between the rules that apply when religious organizations work with public schools and with non-public (private or parochial) schools. Although the following guidelines apply to partnerships and programs involving public schools and faith-based communities, they do not apply to programs run solely by faith-based communities, or programs involving partnerships between non-public (private or parochial) schools and faith-based organizations.**

## **Partnerships and Programs Involving Public Schools and Faith-based Communities can happen in several forms, including:**

- 1. Released-Time Tutoring or Mentoring;**
- 2. At-School Tutoring or Mentoring Partnerships; or**
- 3. Independent, After-School Tutoring or Mentoring.**

**The following are guidelines that public schools and faith-based organizations should bear in mind in each of these settings:**

**1. Released-Time Tutoring or Mentoring**

Approximately 50 years ago, the U.S. Supreme Court ruled that public schools may allow students *who have parental permission* to leave campus during the school day for religious instruction. In released-time education, parents must give their permission in advance for their child to be transported off-campus during the school day to a place designated by participating religious institutions. The parent chooses which faith his or her child is to learn.

**If a public school chooses to allow released time, the following guidelines must be observed:**

- The religious instruction, tutoring, or mentoring must occur off campus, and the program must be wholly organized and run by the participating churches, mosques, synagogues, or other religious communities and not by the schools. The religious communities should make all arrangements for the facilities, transportation, instruction, insurance, parent information and permission, etc. The program should not involve the expenditure of public funds;
- In their words and actions, teachers and administrators may not encourage or discourage the participation of students or parents in released-time programs. Teachers should arrange their lesson plans so that students who participate in released-time religious education are not left at a disadvantage by missing instruction, tests, or class parties during that time. Neither should non-participating students be deprived of meaningful classroom activity. Schools must create neither incentives nor penalties for students to participate or not participate in released-time programs;
- Parental permission must be a prerequisite for participation in any released-time program of religious instruction. To avoid use of government funds or personnel for religious indoctrination, only the religious community should print and only volunteers should distribute any information and parental permission forms to students, as well as take attendance;
- Participating religious organizations should inform schools of the weekly attendance by each released student; and
- Schools may require liability insurance and other reasonable regulations relating to student health, education, and safety, provided such regulations apply neutrally to all participating organizations, whether religious or nonreligious.

**2. At-School Tutoring or Mentoring Partnerships**

When public schools develop partnerships involving religious communities coming onto school property as a part of the curriculum during the school day, or as part of a school-sponsored program after school, they must do so with particular care. While a volunteer's faith may motivate him or her to participate in an at-school tutoring or mentoring program, the U.S. Constitution does not allow the volunteer to infringe on the religious freedom and beliefs of the student being helped on school property. Public schools, and the programs sponsored by them, can neither foster religion *nor* preclude it.

*Public schools forming partnerships including faith-based communities for school-sponsored programs that will occur on school property should consider and adhere to the following guidelines established by the U.S. Department of Education:*

- Make sure the program has a secular purpose;
- Remain neutral between secular and religious groups, and among religious groups, when selecting partners;
- Select student participation without regard to the religious affiliation of the students;

- Make sure any jointly sponsored activities provided within the partnership program, wherever located, are purely secular;
- Make sure any space used for the program is safe and secure for the children;
- Make sure any space used by the public school for instructional purposes is free of religious symbols;
- Put the partnership agreement in writing;
- DO NOT limit participation in the partnership, or student selection, to religious groups or certain religious groups;
- DO NOT encourage or discourage student participation with particular partners based on the religious or secular nature of the organization;
- DO NOT encourage or discourage students from engaging in religious activities;
- DO NOT condition student participation in any partnership activity on membership in any religious group, or on acceptance or rejection of any religious belief, or on participation in, or refusal to participate in, any religious activity; and
- DO NOT reward or punish students (for example, in terms of grades or participation in other activities) based on their willingness to participate in any activity of a partnership with a religious organization.

*Volunteers forming partnerships with public schools for school-sponsored programs that will occur on school property should consider and adhere to the following guidelines recommended by the U.S. Department of Education:*

- DO NOT pray with the student and families, or encourage them to pray during your volunteer session with them;
- DO NOT preach about your faith to the children and their families while conducting your educational activity;
- DO NOT prohibit or discourage speech or other activity simply because of its religious content or nature; and
- DO NOT infringe on the rights of students and their family members to speak about religion, or to say a prayer or to read a Scripture, provided it is within the reasonable limits of rules for orderliness, talking, and congregating that are set for other speech and activities.

These guidelines for programs conducted on school grounds should be observed whether the program is conducted during the school day or after school.

#### **4. Independent, After-School Tutoring or Mentoring**

Nothing in these guidelines is meant to restrict the right of religious organizations to operate their own independent, after-school tutoring and mentoring programs. In fact, religious groups already sponsor many independent, after-school tutoring and mentoring programs in Alabama. Typically, these programs are held off campus. If a school has a policy or practice of allowing outside clubs and organizations (such as the Boy Scouts, Girl Scouts, 4-H Clubs, etc.) to hold meetings on school property after school, however, faith-based tutoring and mentoring efforts should not be excluded simply because of their religious affiliation if tutoring and mentoring are among the purposes for which the school allows other outside clubs and organizations to meet after school. The restrictions on religious expression listed in Section 2 above regarding school-sponsored programs would not apply to independent, non-school sponsored tutoring or mentoring programs. In addition, nothing in these guidelines is meant to restrict the right of students to invite outside speakers for religious club meetings in accordance with the terms of the Equal Access Act.

**For more information on religious expression in public schools,  
you may want to contact:**

**American Association of  
School Administrators**  
1801 North Moore Street  
Arlington, VA 22209  
Phone: (703) 528-0700  
Fax: (703) 528-2146  
Web site: [www.aasa.org](http://www.aasa.org)

**American Center for Law  
and Justice**  
120 Zeigler Circle East  
Mobile, AL 36608  
Phone: (334) 633-2154  
Website: [www.aclj.org](http://www.aclj.org)

**American Jewish Congress**  
15 East 84th Street  
New York, NY 10028  
Phone: (212) 360-1545  
Fax: (212) 861-7056

**Catholic League for  
Religious and Civil  
Rights**  
1011 First Avenue  
New York, NY 10022  
Phone: (703) 538-5085

**Christian Legal Society**  
4208 Evergreen Lane, Suite  
222  
Annandale, VA 22003  
Phone: (703) 642-1070  
Fax: (703) 642-1075  
Web site:  
[www.christianlegalsociety.org](http://www.christianlegalsociety.org)

**Council on Islamic  
Education**  
P.O. Box 20186  
Fountain Valley, CA 92728-  
0186  
Phone: (714) 839-2929

**Freedom Forum – First  
Amendment Center**  
1207 18th Avenue South  
Nashville, TN 37212  
Phone: (615) 322-9855  
Web site:  
[www.freedomforum.org](http://www.freedomforum.org)

**National Association of  
Evangelicals**  
1023 15th Street, N.W., #500  
Washington, DC 20005  
Phone: (202) 789-1011  
Fax: (202) 842-0392  
Web site: [www.nae.net](http://www.nae.net)

**National PTA**  
1090 Vermont Ave., NW  
Suite 1200  
Washington, DC 20005  
Phone: (202) 289-6790  
Fax: (202) 289-6791  
Web site: [www.pta.org](http://www.pta.org)

**National School Boards  
Association**  
1680 Duke Street  
Alexandria, VA 22314  
Phone: (703) 838-6703  
Fax: (703) 548-5613  
Web site: [www.nsba.org](http://www.nsba.org)

**Religious Action Center of  
Reform Judaism**  
2027 Massachusetts Ave.,  
NW  
Washington, DC 20036  
Phone: (202) 387-2800  
Fax: (202) 667-9070  
Web site: [www.rj.org/rac/](http://www.rj.org/rac/)